

HON'BLE SRI JUSTICE V.V.S.RAO

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WRIT PETITION No.2238 of 2006

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Dated:13.10.2006

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Between:

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Sri Vinayaka Bricks Manufacturers.

...Petitioners

and

The Govt. of A.P., and others.

...Respondent

HON'BLE SRI JUSTICE V.V.S.RAO

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WRIT PETITION No.2238 of 2006

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ORDER:

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Sri Vinayaka Bricks Manufacturers and Owners Welfare Association (hereinafter called, the Association) filed the instant Writ Petition assailing Notice No.27 dated 22.01.2006 issued by the Assistant Executive Engineer, GRB (Upper Section), Kothapeta, in East Godavari District, as illegal and unconstitutional being violative of Articles 14, 19(1)(g) and 21 of the Constitution of India. Though interlocutory matters are listed, the matter is heard finally and is being disposed of by this order.

The petitioner-Association espouses the cause of brick manufacturers of Kedarlanka Village of Kapileswarapuram Mandal in East Godavari District. The Association has 31 members and allegedly provides employment to 3000 persons engaged in the manufacturing of bricks. When there was allegedly obstruction by respondents 1 to 4 in the brick manufacturing activity, they filed Writ Petitions, being W.P.No.25656 of 1999 and W.P.No.5225 of 2000. In these Writ Petitions, the right of the petitioners was not decided. However, they were given liberty to submit their explanations to the notices issued by respondents 1 to 4 to stop brick manufacturing activity. Be that as it is, after the Writ Petitions were disposed of, the

Secretary of the petitioner-Association submitted an explanation/representation on 17.01.2006, *inter alia*, contending that all the brick manufacturers of Kedarlanka Village are getting earth for bricks from places outside Kedarlanka Village. The petitioner alleges that in spite of the same, the impugned notice was issued directing the members of the petitioner-Association to stop manufacturing bricks and they were also informed that necessary action would be taken as per Sections 6, 9 and 13 of the River Conservancy Act, 1884.

This Court while admitting the Writ Petition on 07.02.2006 passed interim orders in W.P.M.P.No.2725 of 2006 directing the respondents not to interfere with the manufacturing of bricks activity with the mud procured by the petitioner from outside the Kedarlanka Village and Veedhivarilanka Village of Kapileswarapuram Mandal. Respondents 8 and 9, the two villagers of Kedarlanka Village and Veedhivarilanka Village now filed W.V.M.P.No.872 of 2006 seeking vacation of the said orders. In the counter affidavit filed along with the said miscellaneous application it is stated that the seventh respondent inspected the site on 21.01.2006 and verified as to whether the manufacturers are transporting the clay/earth from outside Kedarlanka Village and Veedhivarilanka Village. It is further stated that though this Court passed interim orders in favour of the petitioner enabling them to manufacture bricks from the clay procured from outside, the manufacturers are digging the soil inside the two Villages and there is a threat of two Villages getting washed away in the floods as these two Villages are lanka Villages surrounded by River Godavari. An allegation is also made that about 200 trucks of clay is being extracted from two Villages, which is detrimental to the Villages. The petitioner-Association has not filed any reply affidavit denying the allegations.

Learned Counsel for the petitioner submits that after the orders of this Court in the earlier two Writ Petitions, the brick manufacturers are procuring earth/clay for bricks from outside the Villages, and therefore, there cannot be any objection for manufacturing bricks. Secondly, he submits that on an allegation that manufacturers are digging clay from the Villages, the seventh respondent cannot totally prohibit the activities of the petitioner, which would violate Article 19(1) (g) of the Constitution of India. **Per contra**, the learned Counsel for respondents 8 and 9 placed reliance on the decision of the Division Bench of this Court, to which I was a member, in **Kakani Hanumantha**

Rao v. Govt. of A.P.^[1], in support of the contention that whether or not the petitioners are procuring clay from the river bed or from outside the Villages, running of brick kilns on the tank bed is prohibited. According to the learned Counsel, the two Villages are lanka Villages, and therefore, brick manufacturing activity cannot be permitted. He also reiterated the respondents' position as disclosed in their counter affidavit.

A perusal of the impugned order would show that after receiving the representation, dated 17.01.2006, made by the Secretary of the petitioner-Association, the seventh respondent inspected the area on 21.01.2006. He found that there is illegal extraction of clay for brick manufacturing. Therefore, this Court cannot find fault with the direction issued by the seventh respondent to stop manufacturing brick activity, especially, when it was found that bricks were being manufactured with the clay from the Villages. In **Kakani Hanumantha Rao's** case (supra), this Court held that establishment of brick kilns in the tank bed (water body) would be detrimental to the preservation of environment. The same principle as well applies to the brick manufacturing activity in lanka lands. If continuously the clay/soil is removed from the lanka lands, it is likely to endanger the human lives of those who make residence in the Village. Therefore, this Court does not find any merit in the Writ Petition.

Insofar as the contention of the learned Counsel for the petitioner that in the absence of any law or regulations the members of the petitioner-Association cannot be prevented from manufacturing bricks with the clay/soil procured from outside, is concerned, the legal position cannot be denied. The learned Government Pleader for Revenue (General) and the learned Government Pleader for Irrigation have not placed before this Court any law or regulation prohibiting the brick manufacturing activity totally. It is for the District Collector to look into the matter and pass appropriate orders. Therefore, the petitioner-Association or its members may approach the District Collector for redressal insofar as carrying/continuing the brick manufacturing activity in Kedarlanka Village and Veedhivarilanka Village.

The Writ Petition, with the above observations, is accordingly dismissed. No costs.

(V.V.S.RAO, J)

13.10.2006

vs

[\[1\]](#) 2001(5) ALT 312 (D.B)